

D.T.E. 96-AD-11

Adjudicatory hearing in the matter of the complaint of Carol Lee Corbett relative to the rates and charges for gas sold by Boston Gas Company.

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APPEARANCES: Carol Lee Corbett

377 Cherry Street

Newton, Massachusetts 02465

PRO SE

Complainant

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FOR: BOSTON GAS COMPANY

Respondent

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## I. INTRODUCTION

On December 12, 1995, an informal hearing was held before the Consumer Division ("Consumer Division") of the Department of Telecommunications and Energy ("Department") on the complaint of Carol Lee Corbett ("Complainant"), relative to rates and charges for gas sold by Boston Gas Company ("Company" or "Respondent"). The Complainant was dissatisfied with the informal hearing decision and requested an adjudicatory hearing before the Department pursuant to 220 C.M.R. § 25.05(4)(c). The matter was docketed as D.T.E.

96-AD-11.

Pursuant to notice duly issued, an adjudicatory hearing was held on July 20, 1999<sup>(1)</sup> at the Department's offices in Boston, in conformance with the Department's regulations on Billing and Termination Procedures, 220 C.M.R. §§ 25.00 et seq. The Complainant testified on her own behalf. The Respondent sponsored the testimony of Raymond Baril, supervisor of customer services for the Company. The evidentiary record consists of seventeen exhibits, of which ten were introduced by the Complainant and five were introduced by the Respondent, and the Complainant's and Respondent's responses to one Department record request each.

## II. SUMMARY OF ISSUES

The Complainant disputes the Company's gas bills for gas consumed at

377 Cherry Street, Newton, Massachusetts (the "Residence") (Tr. at 42, 46). The Complainant testified that the bills were too high during the time in dispute due to a malfunctioning gas meter (Tr. at 47, 50). The Company stated that the Complainant was billed correctly for usage during the time in question and that there is no pattern evident in the Complainant's account history that supports the Complainant's contention that the meter installed at her Residence was not operating properly (Tr. at 49, 151).

## III. SUMMARY OF FACTS

### o The Complainant

The Complainant disputes bills totaling \$4,819.32<sup>(2)</sup> for gas service to her Residence for the period from June 1986 to April 1994 (Exh. CLC-7; Tr. at 46, 97; RR-DTE-2).<sup>(3)</sup> On or about June 10, 1986, a gas meter numbered 02812357 (the "1986 meter") was installed at the Residence (Exh. BGC-3; RR-DTE-2). The 1986 meter replaced a previous meter that had been in operation at the Complainant's Residence (Tr. at 54). During the time in dispute, the Complainant operated a gas stove with an attached gas-powered space heater (Tr. at 79). A gas-powered clothes dryer also was used at the Residence before 1990 (Tr.

at 82, 83). No other gas-powered appliances were used and the Residence was not heated by gas (Tr. at 80). The Complainant claimed that her gas bills increased following the installation of the 1986 meter, although she claimed that her actual usage declined markedly after 1989 when her daughter moved out of the Residence (Tr. at 72, 83, 98). She claimed this decline in usage was not reflected in her gas bills and that her bills remained unsupportably high (Tr. at 98). She attributed these increases to the 1986 meter, which she claimed was incorrectly monitoring her gas usage by running too fast (Tr. at 64).

Before and during the time period in dispute, the Complainant was on a continuous levelized billing ("CLB") plan with the Company, wherein she paid the same amount for gas service each month, with a final reconciliation of her account once a year (Tr. at 64, 70). She claimed that the CLB bills she received made it difficult for her to determine the actual amount of usage for which she was being billed (Tr. at 46, 50-51, 64). She stated that she made numerous telephone calls to the Company regarding the 1986 meter (Tr. at 46-47). However, there is no indication that she requested the 1986 meter be tested for accuracy at any time before its replacement in 1994.

On April 29, 1994, a gas meter numbered 02864585 (the "1994 meter") was installed at the Residence and the 1986 meter was removed (Exh. BCG-3; Tr. at 120). At the time of the 1986 meter's removal, the Complainant stated that she requested the installer to test the 1986 meter for accuracy (Tr. at 47). The Complainant testified that the Company did not test the 1986 meter (Tr. at 47). The Complainant claimed that soon after the 1994 meter was installed, her gas bills decreased significantly (Tr. at 55). The Complainant stated that this confirmed her belief that the 1986 meter had been inaccurately measuring her usage since its installation in June 1986 until its removal in April 1994 (Tr. at 47).

- The Company

The Company stated that the 1986 meter was replaced in April 1994 and subsequently destroyed as part of the Company's overall effort to replace meters that could not be retrofitted with electronic reading devices (Exh. BGC-2; Tr. at 123). The Company testified that it did not perform a test on the 1986 meter because it had no record of a request that it should be tested (Tr. at 123). The Company provided the work order completed by the installer at the time of the 1986 meter's removal from the Residence which contained no indication of a request for a meter test by the Complainant (Exh. BGC-3; Tr. at 121-122). In addition, the Company provided a document titled "Meter Test Results for 1994," which the Company said showed that the Complainant's meter was destroyed without being tested (Exh. BGC-3; Tr. at 143-144). According to Exh. BGC-3, in 1994, the Company tested only one meter of the type that could not be retrofitted with electronic reading devices before its destruction; and the Company testified that one test was conducted as a result of a request for a test (Exh. BGC-3; Tr. at 143). In response to the Complainant's telephone inquiries, the Company notified the Complainant of the destruction of the 1986 meter by letter dated October 13, 1994 (Exh. BGC-4; Tr. at 123). The Company claimed that the fluctuations in the Complainant's gas

usage during the time in dispute were consistent with the sporadic and seasonal use of a kitchen space heater (Tr. at 115-116).

The Company acknowledged that during the time in dispute, the Company issued numerous consecutive estimated bills to the Complainant (Exhs. CLC-4, CLC-5, BGC-1; Tr.

at 112; RR-DTE-2). The Company issued only one bill based on an actual meter reading beginning with the installation of the meter in the Complainant's Residence in June 1986 and ending with the installation of the new meter in April 1994 (Exhs. CLC-4, CLC-5, BGC-1; RR-DTE-2).<sup>(4)</sup> Other bills during the disputed period, including the annual reconciliation of her CLB bills, were based on estimated or customer reads (Exhs. CLC-4, CLC-5, BGC-1; RR-DTE-2). The Company offered no explanation for its failure to perform actual reads of the Complainant's meter.

#### IV. STANDARD OF REVIEW

- High Bills

The Department has held consistently that, where a meter has been tested and found accurate, past actual readings are correct absent clear and convincing evidence to the contrary. Nelder v. Boston Edison Company, D.P.U. 91-AD-38 (1994); Chapman v. Eastern Edison Company, D.P.U. 262 (1981). Moreover, actual readings from a meter tested and found accurate outweigh a customer's impression of use. Crossley v. Boston Gas Company, D.P.U. 576 (1983). The customer must meet a strict standard when faced with a meter tested and found accurate. The standard rests upon two basic premises: (1) scientific evidence supports the certainty and reliability of tested meters; and (2) billing for utility consumption could not feasibly be based on a customer's impression of use. Mellen v. Boston Gas Company, D.P.U. 91-AD-8 (1994); Donovan v. Hingham Water Company, D.P.U. 758-B (1986).

Further, in cases where a meter has been tested and found to be fast, the company has the burden of producing evidence as to when the meter became inaccurate. Dunakin v. Colonial Gas Company, D.P.U. 1451 (1984); Boston Gas Company v. Story, D.P.U. 1297 (1983). Where a company is unable to present sufficient evidence as to when a meter became inaccurate, the Department has held that the adjustment should cover the period from the date of installation to the date of the meter's removal. See Dunakin, D.P.U. 1451; Story, D.P.U. 1297. See also Stevens v. Boston Gas Company, D.P.U. 1357 (1983). However, after appropriate adjustments, meters fast or slow by 3% or less are not found to be such egregious violations as to justify abating the entire bill. Joseph v. Boston Gas Company, D.P.U. 91-AD-15 (1994); Vaughan v. Boston Gas Company, D.P.U. 1695 (1985); Dunakin, D.P.U. 1451.

While a company is not required to explain how a customer uses the gas or electricity provided, the company has a duty to prove the meter accurate and to take actual meter readings. Denis v. Fitchburg Gas and Electric Light Company, D.P.U. 1376 (1983).

When the accuracy of a meter is questioned, it is the company's burden to prove the meter accurate through a meter test. Shinney v. Boston Gas Company, D.P.U. 84-86-62, at 2 (1986) (citing Bay State Gas Company v. Leblanc, D.P.U. 1604 (1984)). Where the company has not tested the meter and has not produced it for a state meter test, the Department cannot presume that the meter is accurate. Shinney, D.P.U. 84-86-62, at 2.

- Estimated Bills

Department regulations require a company to render actual readings at least every other billing period. 220 C.M.R. § 25.02(2). The company may render estimated bills only if it follows the procedures specified in 220 C.M.R. § 25.02(2)(a), which provide in part:

- The Company has either scheduled readings for times other than normal business hours, or attempted by mail or by telephone to make an appointment with the customer, and provided cards on which the customer may record the reading; and
- The Company has not rendered an estimated bill to the customer for the billing period immediately preceding that for which the estimate is made.

In addition, Department regulations provide for specific circumstances where a company may render estimated bills for any billing period. 220 C.M.R. § 25.02(2)(b) provides in pertinent part:

[T]he company may render an estimated bill for any billing period in which:

- The customer has knowingly or willfully denied reasonable access to the company's representatives for the purpose of taking an actual reading of the meter; or
- The customer has otherwise made an actual reading of the meter unnecessarily difficult; or
- Circumstances beyond the control of the company make an actual reading of the meter extremely difficult.

Where a company fails to render actual bills absent excused circumstances enumerated above, the company may be found in violation of the Department's regulations. The Department has held that a company has a duty to render current-use bills. Boston Gas Company v. Singletary, D.P.U. 84-86-53 (1985). This duty is grounded on the principle that a customer, in order to regulate his/her use, must receive regular, accurate bills. Van Buskirk v. Boston Gas Company, D.P.U. 3 (1982); Weldon v. Bay State Gas Company, D.P.U. 20064 (1979). When a company issues successive estimated bills, the large catch-up bill which accumulates puts an undue burden on the customer. This is precisely the unfortunate result our regulations were designed to avoid. Boston Gas Company v. Cesaitis, D.P.U. 84-86-69 (1986); see also Commonwealth Gas Company v. Markowski, D.P.U. 84-19 (1985).

Further, the Department has held that to allow a company to rely on customer reads over extended periods of time would place an unfair burden upon customers to read meters accurately, and would have the effect of absolving a company of its responsibilities to provide accurate and timely bills as part of its service obligation. Commonwealth Gas Company v. McHugh, D.P.U. 84-86-56 (1985). Accordingly, it would be inappropriate and in direct conflict with the plain meaning of the regulations to permit a company to avoid its obligation to read its customers' meters at least every other billing period by substituting a customer reading for an actual reading taken by the company. Id. at 4-5.

- Abatelements

The Department has consistently found that the issuance of consecutive estimated bills for more than six months constitutes a failure to meet a service obligation in violation of Department regulations warranting the remedy of an abatement. Boston Edison Company v. Lowe, D.P.U. 1190 (1983); Bell v. Boston Edison Company, D.P.U. 47 (1982). The appropriate remedy is to reduce the catch-up bill by the portion attributable to the period beginning six months after the previous actual company meter reading. Meyers v. Boston Edison Company, D.P.U. 90-AD-26 (1994); Boston Gas Company v. Cesaitis, D.P.U. 84-86-69 (1986); Moore v. Boston Edison Company, D.P.U. 85-AD-26 (1987) (Department found company had violated its service obligation in disregard of Department regulations where company failed to render any bills for nine months); see also Boston Gas Company v. Cook, D.P.U. 1422 (1984).

Where a company fails to meet its service obligations to obtain meter readings, followed by another period during which no readings are taken, the appropriate remedy for the second period of meter-reading difficulties is to order a full abatement of the portion of the catch-up bill in excess of estimated bills previously rendered. Myers, D.P.U. 90-AD-26; Moore, D.P.U. 20051 (1982). Circumstances may also dictate that the proper remedy is to abate all charges reflecting use during subsequent estimate periods. Claycombe v. Commonwealth Electric Company, D.P.U. 1427 (1986) (where a company obtained only two actual readings from May 1981 through July 1982, the actual readings did not trigger a new six-month period for the company to discover a billing error). See also Thomas v. Boston Edison Company, D.P.U. 93-AD-30 (1994). The Department has held that when a company demonstrates extreme poor quality of service, thereby depriving the customer of

reasonable price or consumption signals, the Department may take into consideration the overall billing history and order an abatement. Sharpe v. Boston Edison Company, D.P.U. 92-AD-6 (1994).

One way for the Department to monitor a company's management efficiency is for the Department to look at the results of the utility's operations, and specifically at the quality of service provided to its customers. Where a company has exhibited a pattern of disregard for a regulation of the Department in an individual case, the Department may view its conduct as evidence that management has failed to properly monitor the productivity of its employees. In the extreme case where an abatement is found to be appropriate because of errors by company employees, the Department has found that the loss should be borne by the party ultimately responsible for the actions of the company employees, which is the company. It would be discriminatory to charge the loss to the ratepayers. Thomas, D.P.U. 93-AD-30; Fall River Gas Company, D.P.U. 18416 (1976); Boston Edison Company, D.P.U. 18515 (1976). The Supreme Judicial Court has upheld such action by the Department as an exercise of the Department's general supervisory authority under G.L. c. 164, § 76, describing a company's efficiency as a matter "of legitimate public interest." Boston Edison Company v. Dept. of Public Utilities, 375 Mass. 1, 43-44 (1978).

- ANALYSIS AND FINDINGS

- Introduction

The issue to be decided is whether the bills rendered to the Complainant during the period from June 1986 to April 1994 for the Residence were accurate. We conclude that although a review of the Complainant's account history does not support her claim of a defective meter, the use by the Company of numerous consecutive estimated and customer read bills without explanation during the time in dispute constitutes a failure to meet its obligation to render regular, accurate bills. This failure to provide regular, actual meter-read bills did not provide the Complainant with the level of billing accuracy to which she is entitled under the Department's billing and termination regulations.

- Request For Meter Test

As stated above, when a customer disputes the accuracy of a meter, the Company must prove the accuracy of the meter through a meter test. LeBlanc, D.P.U. 1604, at 2. Where the Company has not tested the meter and cannot produce it for a State meter test, the Department cannot presume that the meter is accurate. Id. Although the Complainant states that she requested the installer to perform a test, the Company contends it has no record of the request (Tr. at 123). Further, the work order prepared contemporaneously with the installation indicates no request for a meter test, and the "Meter Test Results for 1994" document shows the meter in question was destroyed without being tested as no request for a test was indicated while another meter scheduled for destruction was tested in response to a request (Exh. BGC-3; Tr. at 121-122). We conclude that the documents provided by the Company, made as routine records in the ordinary course of business,



showing no request for a meter test made by the Complainant, are more probative than the Complainant's claim. We therefore conclude that the meter in question was destroyed before the Company was aware of a request for a test. We further conclude that the 1986 meter was replaced and destroyed as part of an ongoing meter replacement program and do not discern any bad faith on the part of the Company in the meter's destruction. Therefore, we must turn to the Complainant's account history to see if we can find evidence to support her claims that the 1986 meter was inaccurate.

- The Complainant's Billing History Before and After Installation of the 1986 Meter

Although the Complainant claims that her bills went up following the installation of the 1986 meter, we cannot find evidence to support this claim. Before and during the time in dispute, the Complainant was on a CLB plan with the Company. Monthly CLB payments are based on a customer's historical annual gas consumption and the CLB bills received by the customer are an estimate of the customer's yearly gas consumption, divided into twelve equal increments. The CLB bills received by the customer also indicate the charges for gas consumed each month if the customer was not participating in the CLB plan. These charges are tracked to determine whether the total CLB payments received are greater or lesser than the actual charges for gas consumed. This is essential to calculate the account reconciliation that is made on a yearly basis. If the 1986 meter was inaccurate from its installation, the Complainant's CLB payments would reflect an increase that would be evident first in her 1986 reconciliation payment as well as the monthly CLB payments for gas consumption for the years which followed installation of the 1986 meter. We find that this is not the case. The Complainant submitted records reflecting her CLB payments in the two years preceding the 1986 meter's installation and for several years thereafter. According to Table 1, the Complainant's CLB payments do not indicate an increase in charges that would show a marked change in amount of metered consumption before and after the 1986 meter was replaced. In fact, the Complainant's CLB payments stayed about the same in the years before the 1986 meter was installed and the years following its installation.<sup>(5)</sup> These records do not support the Complainant's contention that her gas bills increased immediately after June 1986 in a manner that could be attributable to a defective meter.

TABLE 1: Complainant's CLB Payments in Dollars

	1984	1985	1986	1987	1988*	1990	1991	1992	1993	1994
Jan.	55.00	160.00	-	57.00	45.00	NR	43.00	58.00	56.00	76.00
Feb.	-	216.40	150.00	57.00	27.00	NR	43.00	58.00	56.00	76.00
Mar.	110.00	87.00	75.00	44.00	45.00	NR	75.00	51.00	56.00	80.00
Apr.	55.00	87.00	75.00	44.00	45.00	NR	75.00	51.00	56.00	***-
May	55.00	87.00	75.00	44.00	45.00	NR	75.00	51.00	56.00	-
June	55.00	87.00	**75.00	44.00	NR	NR	75.00	51.00	56.00	-
July	55.00	87.00	75.00	44.00	NR	NR	75.00	51.00	56.00	-
Aug.	55.00	87.00	75.00	44.00	NR	NR	75.00	51.00	56.00	-

Sept.	80.00	86.93	-	8.77	NR	NR	-	40.88	270.77	-
Oct.	80.00	75.00	-	45.00	NR	NR	27.10	56.00	76.00	-
Nov.	80.00	75.00	7.76	45.00	NR	35.60	58.00	56.00	76.00	-
Dec.	-	75.00	57.00	45.00	NR	43.00	-	56.00	76.00	-

\* No records were submitted by either party which reflect CLB payments for June 1988 - Oct. 1990.

\*\* 1986 meter installed.

\*\*\* 1994 meter installed.

NR = no CLB records submitted for this time period.

(Exhs. CLC-3, CLC-4, CLC-5, BGC-1; RR-DTE-1).

o The Complainant's Billing History During the Time in Dispute

As noted above, CLB payments are based on a customer's prior year's consumption and monthly CLB bills also include the amounts that the customer would be billed if he or she was not on the CLB plan. These billed amounts provide a clearer picture of monthly gas usage than CLB payments. When we review the Complainant's billing history for the time in dispute, we find no pattern that would indicate the presence of a defective meter. Table 2 shows that the billed amounts for the period in question clearly fluctuate on a seasonal pattern, with use increasing in the fall, peaking in the winter and decreasing through the spring months. This pattern corresponds with the seasonal use of the Complainant's gas-powered space heater. Table 2 also indicates that gas usage in the winters of 1992-93 and 1993-94 was much greater than in prior years.<sup>(6)</sup> What Table 2 does not show is irregular or erratic billings or consistently high billings throughout the year that might be indicative of a malfunctioning meter. Further, if we conclude that the Complainant's CLB payment history as shown in Table 1 does not reflect a malfunctioning meter, as we did in section V.C. above, it is reasonable to conclude that the billed amounts in Table 2 that comprise the CLB charges are likewise not indicative of a malfunctioning meter.

TABLE 2: Complainant's Billed Amounts in Dollars

Billing Period:	1986	1987	1988	1989	1990	1991	1992	1993	1994
Jan.-Feb.	NR	111.20	92.48	106.00	NR	95.47	112.16	149.23	201.22
Feb.-Mar.	NR	142.79	72.80	122.11	NR	69.89	59.82	140.89	-
Mar.-Apr.	NR	67.26	60.99	73.21	NR	46.57	78.65	123.99	51.96
Apr.-May	NR	52.24	46.12	38.90	NR	23.83	33.77	44.28	**
May-June	NR	25.62	-	16.83	NR	13.58	21.12	26.87	-
June-July	*23.37	7.18	23.70	23.63	NR	11.14	47.53	20.35	-

July-Aug.	15.18	13.76	-	8.49	NR	10.33	14.86	17.97	-
Aug.-Sept	17.60	12.59	11.49	15.22	15.55	37.47	20.88	38.26	86.58
Sept.-Oct.	21.56	14.79	17.61	16.34	12.80	13.18	24.16	29.64	29.78
Oct.-Nov.	24.99	14.32	45.77	7.78	83.33	31.28	68.33	8.07	18.38
Nov.-Dec.	87.67	59.35	71.87	99.24	64.36	55.25	101.43	118.21	52.88
Dec.-Jan.	96.02	169.15	132.08	NR	172.25	133.79	128.39	167.91	85.58

NR = no billing records submitted which cover this time period.

\* 1986 meter installed.

\*\* 1994 meter installed.

(Exhs. CLC-4, CLC-5, BGC-1; RR-DTE-2).

- The Complainant's Billing History Before and After Installation of the 1994 Meter

In further support of her claim of a defective meter, the Complainant stated that after the installation of the 1994 meter, her gas bills declined considerably. This confirmed her belief that the meter installed in 1986 was defective. If we review the Complainant's billing history before and after the 1994 meter was installed, we find that the Complainant is correct in her contention that her gas bills declined in the two years after the 1986 meter was removed from the Residence. It is understandable that the Complainant would question the accuracy of her meter when faced with this decline, especially after two winters of above-average billing. However, a decline in billed amounts following a meter change is not in and of itself indicative of a malfunctioning meter. To determine the cause of a decline in billed amounts, it is more useful to compare measured use of gas as indicated in a customer's account history before and after the meter change to determine whether the decline in billed amounts was caused by a decline in gas usage. According to records provided by the parties, the Complainant's monthly charges and therm use<sup>(7)</sup> as indicated on billing records before and after the meter's installation in April 1994 are included in Table 3.

TABLE 3: Complainant's Billed Amounts in Dollars and Therm Use in  
Hundred Cubic Feet (CCF)

1993 1994 1995

Billing	billed amounts	therms	billed amounts	therms	billed amounts	therms
Period:						
Jan.-Feb.	149.23	192	201.22	238	63.48	62
Feb.-Mar.	140.89	180	-	-	57.29	55
Mar.-Apr.	123.99	156	51.96	38	25.47	19
Apr.-May	44.28	74	*	-	-	-
May-June	26.87	34	-	-	-	-
June-July	20.35	23	-	-	-	-
July-Aug.	17.97	19	-	-	-	-
Aug.-Sept.	38.26	60	86.58	69	-	-
Sept.-Oct.	29.64	40	29.78	32	88.77	71
Oct.-Nov.	8.07	1	18.38	11	-	-
Nov.-Dec.	118.21	130	52.88	50	-	-
Dec.-Jan.	167.91	193	85.88	87	114.13	98

\* 1994 meter installed.

(Exh. BGC-1).

Table 3 shows that the Complainant was billed \$724.74 based on a therm use of 850 CCF for the time period April 1993 through April 1994. From the installation of the new meter in April 1994 until April 1995, the Complainant was billed \$419.74 based on a therm use of 385 CCF. These records indicate approximately a 42 per cent decrease in therm use and a corresponding decrease in overall charges in the year following the installation of the 1994 meter of approximately 50 per cent. The decline in the amounts billed to the Complainant corresponded with a decline in metered use of gas. Again, these records do not support the Complainant's contention that her bills decreased while her usage remained constant following the installation of the 1994 meter.

o Actual vs. Estimated and Customer Meter Reads

Although the Department finds there is insufficient evidence in the Complainant's account history to show the Complainant's meter was defective, the Company was obliged nonetheless to take actual meter readings of the Complainant's meter. Denis, D.P.U. 1376. Regular, actual meter readings are necessary to provide the customer with the level of billing accuracy required by the Department. The Company's use of numerous consecutive estimated and customer read bills during the time in question does not comport with the Department's billing and termination regulations, 220 C.M.R. §§ 25.00 et seq.

Table 4 shows that the Company failed to render more than one actual bill throughout the years the meter in question was in place in the Complainant's Residence. The Department finds that this failure constitutes extremely poor quality of service. Nevertheless, the Department notes that during the time in dispute, the Company did consistently provide monthly billing statements indicating estimated or customer readings. Thus, the Complainant did receive regular bills which proved to be relatively accurate, thereby providing the Complainant with sufficient information to regulate her use. However, by virtue of the repeated, non-actual reads, her bills were not as accurate as required under Department regulations.

TABLE 4: Actual, Estimated and Customer Reads of Complainant's Meter

Billing Period:	1986	1987	1988	1989	1990	1991	1992	1993	1994
Jan.-Feb.	-	estimated	estimated	estimated	NR	estimated	estimated	estimated	estimated
Feb.-Mar.	-	customer	customer	customer	NR	estimated	customer	estimated	-
Mar.-Apr.	-	estimated	estimated	estimated	NR	estimated	estimated	estimated	customer
Apr.-May	-	estimated	estimated	customer	NR	estimated	customer	estimated	new meter
May-June	-	estimated	-	estimated	NR	estimated	estimated	estimated	-
June-July	new meter	customer	customer	customer	NR	estimated	customer	estimated	-
July-Aug.	estimated	estimated	-	estimated	NR	estimated	estimated	estimated	-
Aug-Sept.	estimated	customer	<b>actual</b>	customer	customer	customer	customer	customer	-
Sept.-Oct.	estimated	estimated	estimated	estimated	estimated	estimated	estimated	estimated	estimated
Oct.-Nov.	customer	customer	customer	customer	customer	estimated	estimated	customer	actual
Nov.-Dec.	estimated	estimated	estimated	estimated	estimated	estimated	estimated	estimated	actual
Dec.-Jan.	estimated	customer	customer	NR	customer	customer	estimated	estimated	actual

NR = no records submitted that cover this time period.

(Exhs. CLC-4, CLC-5, BGC-1; RR-DTE-2).

○ Abatement

The Department finds that the failure to provide actual readings at least every other month, without explanation, for such an extended period of time, constitutes a failure to meet its service obligations. Lowe, D.P.U. 1190; Bell, D.P.U. 47. Therefore, the Department finds that the circumstances of this case dictate an abatement of charges consistent with Department precedent. However, the Department notes that any such abatement must reflect not only the Company's failure to follow proper billing practices, but also the fact that the Complainant did receive reliable service without interruption. See Tavares v. Boston Gas Company, D.T.E. 95-AD-5, at 29 (1999). Further, this case is unlike other cases in which the failure to provide timely and accurate bills prevented the customer from adapting his or her usage patterns due to lack of relevant usage

information. Id. The Department considers the need for a company to meet its service obligations to be equal in importance to a customer not being unfairly enriched where reliable, uninterrupted service and regular reasonably accurate bills have been provided by the company. Id. at 30 n.21.

The Department will order an abatement of all charges from the seventh month until an actual read is taken where it is the first time that a company renders more than six consecutive estimates, unless the Company can justify its failure to read under 220 C.M.R. § 25.02. See Moore, D.P.U. 85-AD-26. For subsequent unjustified failures to read in excess of six months, the Department will order an abatement of all charges from the last actual read through the next actual read. See Thomas, D.P.U. 93-AD-30; Myers, D.P.U. 90-AD-26; Claycombe, D.P.U. 1427. These abatements will be adjusted in appropriate cases for those periods that the record indicates timely and reasonably accurate bills have been provided to the customer by the company. Tavares, D.T.E. 95-AD-5, at 29-30. The Department has found in such cases that the abatement should be reduced by half. Id. at 30.

Accordingly, the Department orders Boston Gas to abate the bills rendered to the Complainant commencing six months after the installation of the 1986 meter in the Complainant's residence through July 11, 1988 in the amount of \$986.34, and all bills rendered to the Complainant from September 8, 1988 through the installation of the 1994 meter in the amount of \$3,535.10. As noted, the above abatements will be reduced by half, for a total abatement of \$2,260.72.

## VI. ORDER

Accordingly, after due notice, hearing and consideration, it is

ORDERED: That the Respondent shall credit the account of the Complainant in the amount of \$2,260.72<sup>(8)</sup> and refund such amounts to the Complainant as are not currently due and payable.

By Order of the Department,

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James Connelly, Chairman

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W. Robert Keating, Commissioner

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Paul B. Vasington, Commissioner

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Eugene J. Sullivan, Jr., Commissioner

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Deirdre K. Manning, Commissioner

Appeal as to matters of law from any final decision, order or ruling of the Commission may be taken to the Supreme Judicial Court by an aggrieved party in interest by the filing of a written petition praying that the Order of the Commission be modified or set aside in whole or in part.

Such petition for appeal shall be filed with the Secretary of the Commission within twenty days after the date of service of the decision, order or ruling of the Commission, or within such further time as the Commission may allow upon request filed prior to the expiration of twenty days after the date of service of said decision, order or ruling. Within ten days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court sitting in Suffolk County by filing a copy thereof with the Clerk of said Court. (Sec. 5, Chapter 25, G.L. Ter. Ed., as most recently amended by Chapter 485 of the Acts of 1971).

1. The Department initially scheduled a hearing for June 29, 1998, which the parties postponed by agreement in an unsuccessful attempt to negotiate a settlement.
2. At the time of the hearing, the Complainant had other monies due and owing for gas services provided after April 1994, however, such matters are not at issue in the instant case.
3. The Department has held that any consumer complaint filed with the Department after February 9, 1999 is limited to a review of records commencing three years prior to the date of the filing of such a complaint. Tavares v. Boston Gas Company, D.T.E.

95-AD-5, at 33 (1999). However, as the instant complaint was filed prior to the Tavares decision, records regarding the Complainant's claims dating more than three years from the filing of the complaint will be reviewed in order to fully understand the issues associated with the complaint in this proceeding.

Further, although requested by the Department to provide all billing information relating to the time in dispute, no billing information was provided by either party which covers the time period of December 12, 1989 through August 8, 1990 (see Tr.

at 74, 163-165). Therefore, this period will not be considered and all references to the time period in dispute do not include these months.

4. The billed amount for the July 11, 1988 through September 8, 1988 billing period was based on an actual read of the Complainant's meter (RR-DTE-2).
5. Table 1 does indicate that the Complainant paid a very large reconciliation bill in September 1993 which may indicate a greater than average use of the gas appliances in the Residence during the 1992-93 winter season.
6. The large increase in the billed amounts for the last two winters the 1986 meter was in use at the Residence refutes rather than supports the Complainant's contention that the 1986 meter was defective since its installation. Although the Complainant has indicated that the gas-powered dryer was disconnected at this time and she believed her gas usage to be much curtailed after 1990, the increase in billings during the final two winters is more likely attributable to an increase in use of the kitchen space heater.
7. Therm use is a measure of usage indicated on customer bills which reflects the amount of energy derived from units of gas consumed during the billing period.



8. The Complainant's account has already been credited by \$1,849.95 following the informal hearing decision, therefore, it is only necessary for the Company to issue a credit in the amount of \$410.77.